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VIA ECF

August 19, 2021

Hon. Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: *Shatsky v. PLO*, No. 18-cv-12355 (MKV) (DF)

Dear Judge Vyskocil:

We write on behalf of Defendants Palestinian Authority and Palestine Liberation Organization ("Defendants") in response to the letter-motion filed in this action by Jeffrey Fleischmann of Law Office of Jeffrey Fleischmann, P.C., counsel for Plaintiffs in *Fuld v. Palestine Liberation Organization*, No. 20-cv-3374 (JMF) (ECF 106). Mr. Fleischmann's letter-motion requests that the Court modify the existing confidentiality order (ECF 64) ("Confidentiality Order") to permit counsel for the *Fuld* plaintiffs to access and use in *Fuld* the confidential jurisdictional-discovery materials produced in this action (the "Confidential Materials").

Arnold & Porter, counsel for Plaintiffs in *Sokolow v. Palestine Liberation Organization*, No. 04-cv-394 (GBD), previously filed a substantially identical letter-motion seeking a modification of the Confidentiality Order in order to allow Arnold & Porter access to the Confidential Materials for use in *Sokolow* (ECF 94).[1] Defendants <u>did not oppose</u> Arnold & Porter's request, which this Court granted on July 2, 2021 (ECF 95). However, there are pending disputes over Arnold & Porter's challenges to Defendants' confidentiality designations concerning some of the Confidential Materials (ECF 101, 105, 108).

Defendants <u>do oppose</u> Mr. Fleischmann's request here because, unlike in *Sokolow*, there is no confidentiality order in place in *Fuld*, and the *Fuld* Plaintiffs have declined Defendants' request

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[1] Indeed, nearly the entirety of Mr. Fleischmann's letter is copied verbatim from the Arnold & Porter letter, including an apparently inadvertent reference to "Arnold & Porter," rather than Mr. Fleischmann's firm, in the last sentence of his letter. (ECF 106 at 3.)

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Squire Patton Boggs (US) LLP   Hon. Mary Kay Vyskocil
                                                               August 19, 2021

that they abide by Defendants' confidentiality designations concerning the Confidential Materials (*see* ECF 106, at 1). Moreover, one of the few changes Mr. Fleischmann made to his letter-motion from Arnold & Porter's version confirms that he anticipates filing the Confidential Materials with the *Fuld* Court.[2] Accordingly, Defendants object, and cannot agree, to Mr. Fleischmann's firm having access to the Confidential Materials until such time as a protective order is executed and so-ordered in *Fuld*.

There is no urgent need for the *Fuld* Plaintiffs to have immediate access to the Confidential Materials. Defendants' Rule 12 motions remain pending in *Fuld*, and Judge Furman has not ordered any jurisdictional discovery in that action. Mr. Fleischmann's letter-motion should be denied without prejudice to refiling upon entry of a confidentiality order in *Fuld*.

Respectfully submitted,

/s/ *Gassan A. Baloul*
Gassan A. Baloul

cc: All Counsel (via ECF)

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[2] The Arnold & Porter letter-motion—which was granted by this Court—sought to modify the Confidentiality Order by adding paragraph 29, which provided, *inter alia*, that "prior to any disclosure of Confidential Material to any person, Arnold & Porter shall provide the producing Party or person seven days' advanced notice to seek additional protections from the Court." (ECF 95, at 1) (emphasis added). Mr. Fleischmann's letter-motion modifies this phrase to "any person other than the *Fuld* Court" (emphasis added), making clear that he wishes to file Confidential Materials in *Fuld* without advance notice to Defendants. Defendants further object to the letter-motion for this reason.